

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



CLAUDE ROBERTSON and JOHN
SZALASNY, individually and on behalf
of all others similarly situated,

Plaintiffs,

1:19-CV-659(JLS)(JJM)

v.

TRINITY PACKAGING
CORPORATION,

Defendant.

DECISION AND ORDER

On May 21, 2019, Plaintiff Claude Robertson, individually and on behalf of all others similarly situated, filed a Collective Action Complaint against Robertson's former employer, Defendant Trinity Packaging Corporation, pursuant to 29 U.S.C. § 216(b) alleging that Defendant willfully violated the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.* Dkt. 1. After Defendant answered the Complaint (Dkt. 1), United States District Judge Lawrence J. Vilaro, to whom this case was previously assigned, referred the case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B).¹

On December 27, 2019, Robertson and John Szalasny, individually and on behalf of all others similarly situated, filed an Amended Collective and Class Action

¹ This case was transferred to the undersigned on February 18, 2020. Dkt. 34.

Complaint alleging that Defendant willfully violated the FLSA, New York Labor Law, §§ 650 *et seq.* and 190 *et seq.*, and 12 NYCRR § 142-1.1 *et seq.* (collectively, the “NYLL”). Dkt. 24.

On May 12, 2022, Plaintiffs filed an “Unopposed Motion for Preliminary Approval of Class Action Settlement and for Certification of Class for Settlement Purposes” (“Unopposed Motion”), which attached a “Joint Stipulation of Settlement and Release” proposing to settle all NYLL class claims as well as all FLSA collective claims. Dkt. 86. On June 21, 2022, Judge McCarthy issued a Report and Recommendation, recommending that Plaintiffs’ Unopposed Motion (Dkt. 86) be denied.

Neither party objected to the Report and Recommendation, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge’s recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

Though not required to do so here, this Court nevertheless reviewed Judge McCarthy’s Report and Recommendation. Based on that review, and absent any objections, the Court accepts the Recommendation.

For the reasons stated above, the Court DENIES Plaintiffs' Unopposed Motion (Dkt. 86). This case is referred back to Judge McCarthy for further proceedings consistent with the referral order of July 31, 2019. *See* Dkt. 12.

SO ORDERED.

Dated: August 24, 2022
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE